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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

United States District Court
Southern District of Texas
FILED

FEB 03 2003

LUIS ALEJANDRO GARZA

*

Michael N. Milby
Clerk of Court

*

VS.

*

CIVIL ACTION NO. B-02-154

*

FEDERAL TORT CLAIMS ACT

THE UNITED STATES OF
AMERICA

*

*

**JOINT DISCOVERY/CASE MANAGEMENT PLAN UNDER RULE
26(f) FEDERAL RULES OF CIVIL PROCEDURE**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Plaintiff, LUIS ALEJANDRO GARZA, and Defendant,
THE UNITED STATES OF AMERICA, and submit this their Joint
Discovery/Case Management Plan under Rule 26(f) of the Federal Rules
of Civil Procedure, and in support thereof would respectfully show as
follows:

1. State where and when the meeting of parties required by Rule 26(f)
was held and identify the counsel who attended for each party.

ANSWER: *The meeting of the parties took place by telephone conference
through their respective attorneys on January 6, 2003.*

2. List the cases related to this one that are pending in any state or
federal court with the cause number and court.

ANSWER: *None.*

3. Specify the allegation of federal jurisdiction.

ANSWER: *This suit is brought under the Federal Tort Claims Act. Therefore jurisdiction is based upon 28 USC 1331 and 28 USC 2671 et seq.*

4. Name the Parties who disagree and the reasons.

ANSWER: *The parties agree that this case falls within the Federal Tort Claims Act. However Defendant reserves the right to assert a defense under the "discretionary function" exclusion of the Federal Tort Claims Act.*

5. List anticipated additional parties that should be included, when they can be added, and by whom they are wanted.

ANSWER: *None.*

6. List anticipated interventions.

ANSWER: *None.*

7. Describe class action issues.

ANSWER: *None.*

8. State whether each party represents that it has made initial disclosures required by Rule 26(a). If not, describe what arrangements have been made to complete the disclosures.

ANSWER: *The parties have agreed to make initial disclosures by January 24, 2003.*

9. Describe the proposed agreed discovery plan, including:

A. Responses to all the matters raised in Rule 26(f).

ANSWER: *It appears that early settlement is impossible. Discovery should be conducted in accordance with this Joint Discovery/Case Management Plan.*

B. When and to whom the Plaintiff anticipates it may send Interrogatories.

ANSWER: *Plaintiff anticipates sending interrogatories to Defendant within 60 days.*

C. When and to whom the Defendant anticipates it may send Interrogatories.

ANSWER: *Defendant anticipates sending interrogatories to Plaintiff within 60 days.*

D. Of whom and by when the Plaintiff anticipates taking oral depositions.

ANSWER: *Plaintiff anticipates taking the oral deposition of Defendant's experts, Plaintiff's experts and critical, fact witnesses by June 15, 2003.*

E. Of whom and by when the Defendant anticipates taking oral depositions.

ANSWER: *Defendant anticipates taking the oral deposition of Plaintiff's experts, Defendant's experts and critical, fact witnesses by June 15, 2003.*

F. When the Plaintiff (or the party with the burden of proof on an issue) will be able to designate experts and provide the reports required by Rule 26(a)(2)(B) and when the opposing party will be able to designate responsive experts and provide their reports.

ANSWER: *Plaintiff shall designate experts by April 15, 2003. Defendant shall designate experts by May 16, 2003.*

G. List expert depositions the Plaintiff (or the party with the burden of proof on an issue) anticipates taking and their anticipated completion date. See Rule 26(a)(2)(B) (expert report).

ANSWER: *Plaintiff anticipates taking Defendant's experts and Plaintiff's experts by June 15, 2003.*

H. List expert depositions the opposing party anticipates taking and their anticipated completion date. See Rule 26(a)(2)(B) (expert report).

ANSWER: *Defendant anticipates taking Plaintiff's experts and Defendant's experts by June 15, 2003.*

10. If the parties are not agreed on a part of the discovery plan. Describe the separate views and proposals of each party.

ANSWER: *Not applicable.*

11. Specify the discovery beyond initial disclosures that has been undertaken to date.

ANSWER: *None.*

12. State the date the planned discovery can reasonably be completed.

ANSWER: *July 1, 2003.*

13. Describe the possibilities for a prompt settlement or resolution of the case that were discussed In your Rule 26(f) meeting.

ANSWER: *None.*

14. Describe what each party has done or agreed to do to bring about a prompt resolution.

ANSWER: *Each party has agreed to properly participate in the discovery process for meaningful evaluation of each other's positions.*

15. From the attorneys discussion with the client, state the alternative dispute resolution techniques that are reasonably suitable and state when such a technique may be effectively used in this case.

ANSWER: *Mediation is suitable for this case after paper discovery is completed and expert reports are exchanged, but before experts are deposed.*

16. Magistrate judges may now hear Jury and non-Jury trials. Indicate the parties' joint position on a trial before a magistrate Judge.

ANSWER: *The parties are unable to agree to trial before a magistrate judge.*

17. State whether a jury demand has been made and if it was made on time.

ANSWER: *The parties agree that a jury trial is not available under the Federal Tort Claims Act.*

18. Specify the number of hours it will take to present the evidence in this case.

ANSWER: *At this time, Plaintiff does not know how long it will take to present his case.*

19. List pending motions that could be ruled on at the Initial pretrial and scheduling conference.

ANSWER: *None.*

20. List any other motions pending.

ANSWER: *None.*

21. Indicate other matters peculiar to this case. Including discovery, that deserve the special attention of the court at the conference.

ANSWER: *None.*

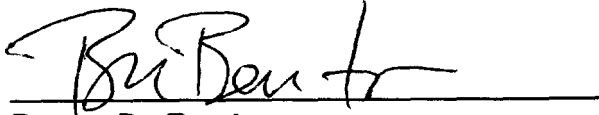
22. List the names, bar numbers, addresses, and telephone numbers of all counsel.

ANSWER:

*Barry R. Benton
284 Ebony Ave.
Brownsville, Texas 78520
(956) 546-9900 Tel
(956) 546-9997 Fax
State Bar No. 02176500
Federal I.D. No. 3968
Counsel for Plaintiff*

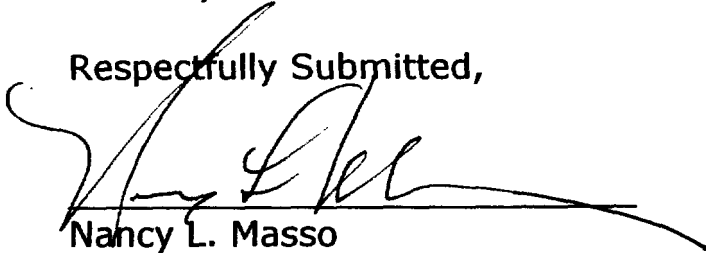
*Nancy L. Masso
Assistant U.S. Attorney
600 E. Harrison St., No. 201
Brownsville, Texas 78522
(956) 548-2554 Tel
(956) 548-2549 Fax
State Bar No. 00800490
Federal I.D. No. 10263
Counsel for Defendant*

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Barry R. Benton", written over a horizontal line.

Barry R. Benton
284 Ebony Ave.
Brownsville, Texas 78520
(956) 546-9900 Tel
(956) 546-9997 Fax
State Bar No. 02176500
Federal I.D. No. 3968
Attorney for Plaintiff

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Nancy L. Masso", written over a horizontal line.

Nancy L. Masso
Assistant U.S. Attorney
600 E. Harrison St., No. 201
Brownsville, Texas 78522
(956) 548-2554 Tel
(956) 548-2549 Fax
State Bar No. 00800490
Federal I.D. No. 10263
Counsel for Defendant